THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.5045 OF 2007

DATED 13th MARCH, 2007

Between

Smt Pericherla Venkata Subba Surya Bharathi and others.

... Petitioners

AND

The District Collector, West Godavari District, Eluru and others.

.... Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.5045 OF 2007

ORDER:

The three petitioners are residents of Pangidigudem village of Dwaraka Tirumala in West Godavari District. They filed the instant writ petition seeking a writ of Mandamus declaring the action of the respondents 1 to 3 herein in not taking any action against the members of A.P.Agricultural Labour Union, who are allegedly trying to trespass into the lands of the petitioners as illegal and arbitrary. A consequential direction is also sought to the respondents to take necessary action.

The petitioners allege that they own agricultural lands, which were assigned to them in 1999 or 2000. The land is comprised in survey Nos.571/1 (Acs.4.35, assigned to first petitioner), 571/2 (Acs.4.74, assigned to second petitioner) and 603/2 (Acs.3.24, assigned to third petitioner). They allege that they obtained agricultural land by mortgaging the land to Sri Venkateswara Primary Agricultural Cooperative Credit Society Limited, Thirumalampalem village, and that they have raised mango trees under National Horticulture Scheme. It is their case that Tydula Bhimayya, Secretary of A.P.Agricultural Labour Union and five others along with other people conducted Dharna before the second respondent on 31.01.2007 and submitted a Memorandum alleging that the assigned lands were in possession of the third parties. They are also regularly

conducting meetings in the village proclaiming that they would dispossess the petitioners. The petitioners made representations to all the respondents on 10.01.2007 requesting to take necessary action against land grabbers, in vain. Therefore, they filed the instant writ petition.

Heard the learned counsel for the petitioners and the learned Assistant Government Pleader for Revenue (A). As rightly pointed by the learned Assistant Government Pleader, a reading of paragraphs 5 and 6 of the affidavit accompanying the writ petition filed by the first petitioner would show that the dispute in respect of which the petitioners seek redressal is in the realm of private law. They also allege the threat of trespass by Tydula Bhimayya and others and that they have, as alleged, already sent a complaint to the first respondent duly marking copies thereof to the third respondent, namely, Deputy Superintendent of Police. A reading of the complaint also shows that they allege trespass by third parties. In such an event, if a cognizible offence is not registered or not ordered to be registered by third respondent, as held by the Supreme Court in **Hari Singh v State of Uttar Pradesh**[1], the petitioners have to file a private complaint in a competent criminal Court.

The writ petition is misconceived and is accordingly dismissed.

(V.V.S.RAO,J)

13.03.2007.
pln

[1] (2006) 5 SCC 733